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Travel Expenses: Construction Industry Employees

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CAUTION

2

This presentation deals with a complex subject matters. The attached documentation is based on tax legislation and administration positions that are subject to change. This presentation is general in nature and should not replace the advice of professionals specializing in taxation matters.

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Outline

1. Course objectives
2. Employee's travel expenses
3. Tax authorities' technical interpretations
4. Prescribed forms

1. Course Objectives

- Review of the tax rules for automobile expenses claimed by construction employees
- General information - (consult your tax professional)

1. About the Speaker

■ Gail Wosnitza, CA

- Raymond Chabot Grant Thornton Tax Partner
- Over 30 years experience in taxation
- Specializes in transactions involving private corporations, family and estate planning, and corporate reorganizations
- Member of the Board of Governors of the Canadian Tax Foundation



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2. Tax Rules - Employee Automobile Expense Claims

Definition of an Automobile

An automobile is generally defined as:

- A motor vehicle designed to carry individuals (seating capacity for not more than driver and 8 passengers) other than:
 - an ambulance, taxi, bus, hearse
 - a minivan or pick-up truck with three seats or less that is being used primarily (more than 50% of the time) to transport merchandise
 - a minivan or pick-up truck the use of which is all or substantially all (90% or more of the time) for the transportation of goods or passengers
 - a police car or fire emergency response vehicle

Definition of an Automobile

- A pick-up truck that is used primarily for the transportation of goods or equipment in the course of gaining or producing income, at a location that is:
 - a special or remote location
 - at least 30 kilometres outside the nearest point on the boundary of the nearest urban centre, as defined by the last Census Dictionary published by Statistics Canada before the year, that has a population of at least 40,000 individuals as determined in the last census published by Statistics Canada before the year

Conditions for Deducting Automobile Expenses

- An employee may claim expenses of an automobile used in connection with his/her employment if the following conditions are met:
 - The employee is usually required to work away from the employer's place of business
 - The employment contract requires the employee to pay his/her own automobile expenses
 - The employee has not received a non-taxable allowance for automobile expenses

Eligible Expenses

10

■ Leased automobile

- Leasing expenses include leasing costs as well as any associated costs paid to the lessor such as for maintenance contracts, penalties for excess kilometres, terminal charges, including sales taxes
- Maximum deductible monthly leasing costs are the lesser of:
 - \$800 plus sales taxes (\$911 in 2011, including GST-QST)
 - Actual lease charges x (\$30,000 + sales taxes)
85% of the manufacturer's list price (minimum \$35,294 + sales taxes)
- The \$800 maximum depends on the date of the leasing contract

Eligible Expenses

11

■ Purchased automobile

- The maximum purchase price is \$30,000 plus sales taxes (\$34,177 including GST-QST)
- If the cost of the automobile is:
 - less than the \$30,000 plus sales taxes limit, the cost of the automobile is included in Class 10
 - equal to or greater than the \$30,000 plus sales taxes limit, the cost of the automobile is included in Class 10.1

■ Financing charges

- The interest expense limit is \$10 per day (\$ 300 per month)

Eligible Expenses

12

- Operating expenses
 - gas and oil
 - maintenance and repairs
 - license and registration
 - Insurance
 - Odotrack fees

- Accident repair expenses are deductible in full if the vehicle was being used to earn income from an office or employment at the time of the accident

Non-eligible Expenses

13

- Expenses relating to a traffic violation and fines are not deductible
- Accident repair expenses are not deductible if the vehicle was being used for personal purposes at the time of the accident

Conditions to Claim GST and QST by an Employee

14

■ Conditions

- Employer must be GST/QST registrant
- Employer cannot be a designated financial institution (GST exempt)

■ Employee may claim a rebate for taxes on

- Cost of the automobile based on CCA claimed each year
- Other automobile expenses based on deductible portion of expenses

■ Forms:

- GST: GST370
- QST: VD-358

Business Travel

15

- Travel from an employee's home to the employer's establishment is considered to be personal travel
- Travel from an employee's home to the first client's location (or to a location other than the employer's establishment) and from the last client's location (or to a location other than the employer's establishment) to home without going to the employer's establishment is considered business use
- If most of an employee's assignments are at the same client's location, travel to and from the employee's home and that client's establishment is considered personal use
- Employer's establishment ?

Calculation of Deduction

16

- Automobile purchase
(operating costs + CCA + interest) x $\frac{\text{employment km}}{\text{total km}}$
- Automobile lease
(operating costs + leasing costs) x $\frac{\text{employment km}}{\text{total km}}$

Parking

17

- Parking costs incurred during travel for employment purposes only are deductible

Automobile Allowance

18

- An allowance is an amount paid by an employer to an employee to compensate for expenses incurred in connection with the office or employment without having to justify its use
 - Based on kilometres driven
 - Fixed

Allowance Based on Kilometres Driven

19

- An allowance is considered reasonable if it is computed solely based on the number of kilometres driven in connection with the employment
- Accordingly, it is essential for employees to keep a logbook of the actual number of kilometres driven to ensure the allowance will not be taxable
- A reasonable allowance is not taxable to the employee

Allowance Based on Kilometres Driven

20

- Employer's maximum deductible allowance paid to employees
 - \$0.52/km for the first 5,000 kilometres
 - \$0.46/km for each additional kilometre

Fixed Allowance

- A fixed allowance is a predetermined amount paid out in advance periodically to the employee without taking into account the kilometres travelled
- This allowance is taxable and the employee may deduct automobile expenses if the conditions are met



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3. Construction Industry-Specific Tax Rules and Tax Authorities' Technical Interpretations

R20 Regulation: Recap of Kilometrage Allowances

Sector		Allowance based on kilometres driven			
		0-40 km	41-60 km	61-90 km	91-120 km
Residential	“light”	3	3	3	3
	“heavy” ¹	\$0.00/km	\$0.44/km	\$0.44/km	\$0.44/km
Commercial and institutional ²		\$0.00	\$0.00	\$31.60	\$37.63
Industrial		\$0.00	\$0.00	\$31.60	\$37.63
Civil engineering and roadway		\$0.00	\$0.00	\$31.60	\$37.63

- Rate in effect on May 1, 2011
- Site located in following regions: Québec City, Trois-Rivières, Montréal and Eastern Townships

1 Type 1

2 Type 2

3 No allowance

Technical Interpretation

- A request for technical interpretation was submitted to the CRA and MRQ for clarification of a number of situations affecting construction industry employees. The questions and respective replies are presented below:
 - Type 1 construction (heavy residential)
 1. Can an employee exclude from income an allowance paid by the employer and claim a deduction for the portion of travel expenses for which no allowance was received, i.e., travel expenses incurred for the first 40 kilometres?
 - **Federal**
 - According to the CRA, the \$0.44 allowance seems to be reasonable. Accordingly, the allowance does not have to be included in the employee's income assuming that the other conditions for deduction are met . Therefore, no deductions may be claimed.
 - However, the employee could claim a deduction for the portion of travel under 41 kilometres where no allowance was received assuming that the other conditions are met .
 - **Quebec**
 - The MRQ agrees with the CRA's opinion.

Technical Interpretation

25

2. Alternatively, could it be said that the employer's allowance is not reasonable because it does not cover all of the employee's travel expenses between the employee's residence and the construction site? Although the employer pays a travel allowance, could the employee include the allowance in income and claim a deduction for all travel expenses in the course of employment?
 - **Federal**
 - Because the allowance is reasonable, the employee cannot elect to include it in income and then claim a deduction for all travel expenses to and from the construction site.
 - **Quebec**
 - The MRQ agrees with the CRA's opinion.

Technical Interpretation

26

- Type 2 construction (commercial and institutional)
 3. Is the allowance paid by the employer an allowance “calculated solely by reference to the number of kilometres for which the vehicle was used by the employee in the course of employment”?
 - **Federal**
 - An allowance is deemed not to be reasonable unless it is calculated solely by reference to the number of kilometres for which the vehicle was used by the taxpayer in the course of the taxpayer’s employment. (An allowance amount of \$31.60 or \$37.63 is therefore taxable)
 - **Quebec**
 - The taxpayer does not have to question whether the allowance is reasonable. It is not included in calculating income because it is prescribed by the Act.

Technical Interpretation

27

4. If the allowance considered “reasonable” can the employee exclude it from income and claim a deduction for the portion of travel expenses not covered by the allowance, that is, costs incurred for travel of less than 61 kilometres?
 - **Federal**
 - In the opinion of the CRA, the allowance is not reasonable because it is not calculated solely by reference to the number of kilometres for which the vehicle was used in the course of employment. The employee must therefore include the employer’s allowance in income and can deduct all deductible costs assuming that the other conditions are met. (those which are not considered to be travel to the employer’s establishment)
 - **Quebec**
 - The employee can deduct expenses for the portion of travel that is not covered by an allowance pursuant to agreements. (less than 61 kilometres)

Technical Interpretation

28

- In the case of employees who do not request an allowance from their employer
 5. Even though they are entitled, can they claim a deduction in calculating income for all travel expenses in the course of employment?
 - **Federal**
 - A type 1 employee can only claim the portion that is not covered by agreements. (less than 41 kilometres)
 - Because the allowances are not reasonable, a type 2 employee can include the allowances received and deduct expenses actually paid.
 - **Quebec**
 - Since the agreement provides for an allowance related to certain types of travel, we consider that the employee is not required to pay such travel expenses and, accordingly, such expenses are not deductible.

Technical Interpretation

29

6. If not, can the employee claim net travel expenses incurred in the course of employment, that is, total expenses incurred less the amount that could have been claimed from the employer under the applicable collective agreement?
 - **Federal**
 - A type 1 employee can only claim the portion that is not covered by collective agreements.
 - Because the allowances are not reasonable, a type 2 employee , can include the allowances received and deduct expenses actually paid assuming that the other conditions are met.
 - **Quebec**
 - An employee cannot claim a deduction for travel expenses for which the employee could receive an allowance under the collective agreement because the employee is not required to pay the expenses.

Technical Interpretation

7. If an employee makes a stop on the way from home to the work site and back for personal reasons (e.g. to drop a child off at daycare), is the employee considered to travel in the course of employment from home or from the drop off location?
8. What if the drop off location is further from the construction site than the employee's residence?
9. What if the drop off location is closer to the construction site than the employee's residence?

Technical Interpretation

31

- **Federal**
 - Travel for personal reasons is excluded.

- **Quebec**
 - Regardless of the distance between the daycare and the residence or construction site, distance is calculated between the residence and the construction site along a standard route.

Recap

32

Sector		Allowance based on kilometres driven			
		0-40 km	41-60 km	61-90 km	91-120 km
Residential	“light”	A	A	A	A
	“heavy ¹ ”	A	C	C	C
Commercial and institutional ²		A	A	Federal: B Provincial: C	Federal: B Provincial: C
Industrial		A	A	Federal: B Provincial: C	Federal: B Provincial: C
Civil engineering and roadway		A	A	Federal: B Provincial: C	Federal: B Provincial: C

A: Automobile expenses may be deducted

B: Automobile expenses may be deducted and allowance received must be included in income

C: Automobile expenses may not be deducted and allowance is not taxable.

4. Forms

Forms

34

- To claim automobile expenses, a duly completed form must be signed by the employer to attest that the conditions have been met
 - Form T2200 – Federal
 - Form TP-64.3 – Quebec

Forms

35

- To request a reduction in payroll deductions at source, the employee must complete two forms:
 - Form T1213 – Federal
 - Form TP-1016– Quebec

Benefits:

1. Immediate increase in net pay.
2. Pay Odotrack monthly fees with net pay increase.

Thank you for your attention!

36



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